

REMARKS

The Decision on Appeal has stated that the rejections of Claims 1, 2, 5, 11, 15, 16, 19, 25, 29, 30, 33, 39 and 45-49 and Claims 4, 7, 9, 10, 12-14, 18, 21, 23, 24, 26-28, 32, 35, 37, 38 and 40-44 under 35 U.S.C. 103(a) have been affirmed. In response to the affirmation of the rejections under 35 U.S.C. 103(a), applicant has amended the independent claims to further distinguish applicant's claim language from the relevant references relied upon by the Examiner.

Specifically, applicant has amended the independent claims to further distinguish applicant's claim language from the relevant references relied upon by the Examiner, as follows:

“performing an action associated with a suspicious pattern of activity when the suspicious pattern of activity is detected in the peer-to-peer network,” and

“wherein the suspicious pattern of activity is defined in terms of a configuration of shared data on a peer, the configuration establishing a baseline of authorized shares and permissions in association with the shared data” (as amended - see this or similar, but not necessarily identical language in the independent claims).

With respect to the above subject matter now incorporated into the independent claims, applicant respectfully asserts that Meadway (U.S. Patent No. 6,675,205) merely discloses that “[t]he indexing process on each system may be initiated manually or on a scheduled basis, with updates transmitted whenever the user connects to the central service” (Col. 2, lines 6-8). However, merely initiating an indexing process on a scheduled basis, and transmitting updates whenever a user connects to a central service, as in Meadway, fails to disclose “performing an action associated with a suspicious pattern of activity when the suspicious pattern of activity is detected in the peer-to-peer network” (emphasis added), as claimed by applicant. Nowhere in the above excerpt is an “action associated with a suspicious pattern of activity” performed “when the suspicious pattern of activity is detected in the peer-to-peer network” (emphasis added), as specifically claimed by applicant.

Additionally, applicant notes that Welch (U.S. Patent No. 5,862,335) merely discloses that “if AME 81 identifies that packet as part of an existing file transfer AME 81 branches to step 120,” where “AME 81 updates the file transfer record 91 for the appropriate file transfer” (Col. 6, lines 23-26). However, merely identifying a packet as part of an existing file transfer, and branching to an update file transfer record action, as in Welch, fails to disclose “performing an action associated with a suspicious pattern of activity when the suspicious pattern of activity is detected in the peer-to-peer network” (emphasis added), as specifically claimed by applicant.

Further, applicant notes that Meadway merely discloses that “index information [is] transmitted by peer systems to the central site using an agent program running on each peer, and then...the peer systems [are directed] to each other for the purpose of retrieving files” (Col. 1, lines 49-52). However, merely transmitting index information to a central site using an agent program, as in Meadway, fails to disclose a technique “wherein the suspicious pattern of activity is defined in terms of a configuration of shared data on a peer, the configuration establishing a baseline of authorized shares and permissions in association with the shared data” (emphasis added), as claimed by applicant.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant’s disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art excerpts, as relied upon by the Examiner, fail to teach or suggest all of the claim limitations, as noted above.

Thus, a notice of allowance or a proper prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

In this way, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.

In the event a telephone conversation would expedite the prosecution of this application, the Examiner may reach the undersigned at (408) 971-2573. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account No. 50-1351 (Order No. NAI1P344).

Respectfully submitted,
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